

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Investigation into General Order No. 45	)	
Notice filed by Vermont Yankee	)	
Nuclear Power Corporation re: proposed	)	Docket No. 6545
Sale of Vermont Yankee Nuclear Power	)	
Station and related transactions	)	

Prefiled Direct Testimony of

William Sherman

on behalf of the

Vermont Department of Public Service

**REDACTED**

January 7, 2002

Summary: Mr. Sherman summarizes the Department's review of the proposed transaction. Other Department witnesses are introduced in his testimony. He summarizes the results of the Department's analyses, and identifies items which must be clarified, resolved or conditioned for the sale to be approved. He identifies considerations and analytical assumptions which have changed since the Department's evaluation of the proposed sale of Vermont Yankee Nuclear Power Station to AmerGen, and he supports certain assumptions used in the Department's evaluations. He also supports the Department's analysis comparing the continued operation of Vermont Yankee with premature closure of Vermont Yankee.

Direct Testimony  
of  
William Sherman

1 Q. Please state your name and occupation.

2 A. My name is William Sherman, and I am an engineer with the Department of Public  
3 Service ("The Department"). My responsibilities include oversight for the state of the activities  
4 of the Vermont Yankee Nuclear Power Station and the nuclear power industry in general.

5

6 Q. Please describe your educational background and experience.

7 A. I have a B.S. Degree in Mechanical Engineering from The University of Michigan. I have  
8 been with the Department for over thirteen years in the position of nuclear engineer. Prior to  
9 coming to the Department I had 18 years of licensing, engineering, and design experience in the  
10 nuclear industry. I am a registered professional engineer in three states.

11

12 **INTRODUCTION AND SUMMARY OF TESTIMONY**

13 Q. What is the purpose of your testimony?

14 A. My testimony summarizes the Department's review of the proposed transaction. Other  
15 Department witnesses are introduced in this testimony. I summarize the results of the  
16 Department's analyses, and identify items which must be clarified, resolved or conditioned for  
17 the sale to be approved. I identify considerations and analytical assumptions which have

1 changed since the Department's evaluation of the proposed sale of Vermont Yankee Nuclear  
2 Power Station ("Vermont Yankee") to AmerGen (Docket No. 6300) ("the AmerGen proposal"),  
3 and I support certain assumptions used in the Department's evaluations. I also support the  
4 Department's analysis comparing the continued operation of Vermont Yankee by Vermont  
5 Yankee Nuclear Power Corporation ("VYNPC") with premature permanent closure of Vermont  
6 Yankee. I discuss certain other considerations I believe are important for evaluating the  
7 proposed transaction.

8  
9 Q. Please describe the proposed transaction ("the sale").

10 A. Entergy Nuclear Vermont Yankee, LLC ("ENVY") proposes to purchase substantially all  
11 the assets of VYNPC including Vermont Yankee, and to have Vermont Yankee operated by  
12 Entergy Nuclear Operations, Inc ("ENO"). ENVY and ENO are wholly owned subsidiaries of  
13 Entergy Corporation ("Entergy") of New Orleans, Louisiana.

14 ENVY Witness Kansler has described the proposed transaction in his prefiled testimony  
15 of September 27, 2001 at 17 to 24, and this description does not need to be repeated here. The  
16 major components of the sale, as described by petitioners, are as follows:

17 1. Purchase Price - ENVY would pay VYNPC a purchase price of \$180 million at closing.

18 The purchase price is not deflated if closing is delayed, as it was in the AmerGen  
19 proposal.

- 1           2.    Decommissioning Fund Top-off - ENVY proposes to accept the Vermont Yankee  
2           decommissioning fund of greater than \$304 million as a pre-paid trust fund<sup>1</sup>. In the  
3           AmerGen proposal, VYNPC would have topped-off its decommissioning trust fund by an  
4           amount estimated by petitioners to be \$54.3 million. The decommissioning fund would  
5           be transferred to ENVY, which would assume all risks and liabilities associated with  
6           decommissioning, including disposal costs for low-level radioactive wastes and costs  
7           associated with management of spent nuclear fuel following plant closure. As part of this  
8           transfer, ENVY would assume the liability for payment of the approximately \$25 million  
9           Texas Compact fee. This fee would be required in accordance with 10 V.S.A. §7067 for  
10          payment to Texas for membership in the Texas-Maine-Vermont Low-Level Radioactive  
11          Waste Disposal Compact when Texas develops the Compact facility.
- 12          3.    Power Purchase Agreement - VYNPC would purchase 100% of the current power  
13          output of Vermont Yankee from ENVY from the closing date through March 2012, the  
14          end of Vermont Yankee's current operating license, through a power purchase agreement  
15          ("PPA") at fixed prices<sup>2</sup> starting at approximately<sup>3</sup> \$42.64 per MWh in 2002, decreasing

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<sup>1</sup> If the value of the decommissioning fund is less than \$304 million at closing, VYNPC would be required to make a payment, not to exceed \$5.4 million, to the fund. Petitioners expect that the value of the fund will exceed \$304 million at closing.

<sup>2</sup> The amounts of power purchased by VYNPC at the "base price" of the PPA are limited by the monthly maximums specified in Schedule B of the PPA. Vermont Yankee has and is expected to generate at slightly higher levels even without a capacity uprate. The amounts of such "Schedule B excess power" are expected to be approximately 60 to 100 Gwh per year, as described by DPS witness Biewald. Under the PPA, VYNPC would purchase this excess at the

1 to \$39.00 per MWh by 2006, and increasing to \$45.00 per MWh in 2012. VYNPC  
2 would have no obligations for payments to ENVY for periods of planned and unplanned  
3 shutdown of Vermont Yankee. ENVY would have no obligation to deliver power to  
4 VYNPC during planned and unplanned shutdowns of Vermont Yankee.

5 The PPA includes a low-market adjustment mechanism after 2005. If the power  
6 market price<sup>4</sup> for any month is less than 95% of the base price set for that month by the  
7 PPA, then the base price to be used in the purchase price formula is adjusted to be the  
8 power market price plus 5%.

9 VYNPC would not purchase power output through the PPA that ENVY  
10 developed through increasing Vermont Yankee's output capacity ("power uprate"), nor  
11 would VYNPC purchase power output through the PPA after March 2012 if ENVY  
12 extended Vermont Yankee's operating license beyond its current expiration date ("license  
13 renewal").

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NEPOOL energy clearing price.

<sup>3</sup> The PPA price for 2002 is variable, depending on closing date. The prices would be \$30 per MWh in Mar, Apr, May and June; \$55 per MWh in Jul and Aug; and \$49 per MWh in Sep, Oct, Nov, and Dec.

<sup>4</sup> Market price is defined as the actual average hourly NEPOOL spot clearing price for electricity for all hours of the 12 month period immediately prior to each billing date, plus the actual clearing price for Installed Capacity (ICAP) in \$/MWh for this same period, or plus 10% of the average clearing price for electricity in the event there is no clearing price for ICAP.

VYNPC would resell 100% of Vermont Yankee power purchased under the PPA at the same PPA fixed prices to its present sponsors under existing Federal Energy Regulatory Commission ("FERC") approved power contracts (which are submitted to FERC for amendment as part of the proposed transaction). The Vermont sponsors, Central Vermont Public Service ("CVPS") (taking 35% of Vermont Yankee power) and Green Mountain Power Company ("GMP") (taking 20% of Vermont Yankee power), continue to take Vermont Yankee power under the PPA through the end of the current operating license (March 2012).

As part of the proposed transaction, ENVY is seeking FERC approval to become an exempt wholesale generator ("EWG") and to sell power at market-based rates. ENVY proposes to sell power-uprate power at market rates, and under the current proposal, if Vermont Yankee's operating license were renewed, ENVY would then sell all the output of the plant on the market.

4. VYNPC residual expenses - Following the closing for the proposed sale, VYNPC would retain certain residual expenses identified in the prefiled testimony of September 27, 2001 of VYNPC Witness Wiggett on Exhibit BW-10. These residual costs are much less than identified in the AmerGen proposal. This is primarily because the greater purchase price of the proposed transaction allows payment of existing VYNPC debt and most of the VYNPC equity. These residual expenses would be collected over the remaining

1 operating license term of Vermont Yankee (until March 2012) from the VYNPC  
2 sponsors.

3  
4 Q. Besides this present docket, what other approvals are necessary for the proposed transaction?

5 A. According to the petitioners, ENVY, VYNPC, and the VYNPC sponsors must get  
6 various approvals from the FERC, the NRC, the Securities and Exchange Commission, the  
7 Internal Revenue Service, the Federal Trade Commission, and the various state public utility  
8 commissions.

9  
10 Q. In addition to your testimony, what other testimony is being provided by the Department?

11 A. The Department provides the following additional prefiled testimony:

- 12 • David Lamont of the Department provides testimony describing the estimated future  
13 market prices of electricity which are used for the Department's comparisons of  
14 alternatives.
- 15 • Paul Chernick of Resource Insight, Inc. evaluates the bid and negotiation process which  
16 VYNPC used to arrive at the proposed transaction, and compares the proposed  
17 transaction with other nuclear transactions.
- 18 • Bruce Biewald and David Schlissel of Synapse Energy Economic, Inc. compare the  
19 proposed transaction with the alternative of continued operation of Vermont Yankee  
20 Nuclear Power Station ("Vermont Yankee") by Vermont Yankee Nuclear Power  
21 Corporation ("VYNPC"), evaluate the value of the proposed transaction to the buyer,  
22 ENVY, and analyze the shifts of risks and liabilities.
- 23 • David Effron, CPA, reviews tax and other financial implications of the proposed  
24 transaction and determines the net gain for VYNPC on the sale.
- 25
- 26
- 27
- 28

- Andrea Crane of The Columbia Group, Inc. reviews aspects of Entergy's corporate structure and the adequacy of financial assurances provided by ENVY.

Q. What is the Department's conclusion regarding the proposed transaction?

A. The Department can support a sale of VYNPC as evidenced by its previous support for the AmerGen Memorandum of Understanding ("AmerGen MOU")<sup>5</sup>. However, considering operation through 2012 and weighing all the aspects of the proposal, the economic benefit of the proposed transaction is not sufficient to justify approval without resolution of the two concerns identified below and the additional conditions identified in the next section of this testimony. The major concerns which must be clarified, resolved or conditioned for the sale to promote the general good of the state of Vermont are:

- If Vermont Yankee's license is renewed for operation beyond 2012, Vermonters must have the benefit of a long-term, economically-attractive power supply in exchange for hosting the nuclear plant all of these years.
- There must be assurance that economic risks are, indeed, transferred as evidenced by appropriate financial guarantees and corporate structure. The financial assurance issues identified by Witness Crane must be resolved.

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<sup>5</sup> Memorandum of Understanding Among AmerGen Energy Company, LLC, AmerGen Vermont LLC, Vermont Yankee Nuclear Power Corporation, Central Vermont Public Service Corporation, Green Mountain Power Corporation, and the Vermont Department of Public Service, Docket. No. 6300, dated November 15, 2000.



1 Q. Please provide a brief summary of the Department's evaluations.

2 A. In the comparison of alternatives, if Vermont Yankee operated only until the expiration  
3 of its current license, Witness Biewald determines that the sale would have a \$13 million overall  
4 net present value ("NPV") benefit, and a \$7.2 million NPV benefit for Vermonters<sup>6</sup>. This  
5 benefit, which is significantly smaller than the benefit calculated by the petitioners, demonstrates  
6 that the economic benefit from the sale if Vermont Yankee operates only until 2012 is marginal.

7 If Vermont Yankee received a 20-year license renewal<sup>7</sup>, Witness Biewald determines that  
8 the sale would be detrimental to all sponsors by an overall NPV amount of \$266 million, and to  
9 Vermonter's by a NPV amount of \$146 million. Under the terms of the proposed sale, if the  
10 plant is relicensed, the state and its ratepayers would neither get the value from, nor be assured  
11 of receiving access to, the power from the nuclear plant at favorable rates.

12 I determine that the NPV benefit of continued operation by VYNPC until 2012 compared  
13 to premature (defined as before the end of the operating license, "EOL") shutdown in 2002 is  
14 \$281 million, and therefore premature shutdown is unfavorable for ratepayers<sup>8</sup>.

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<sup>6</sup> Unless otherwise noted, NPV values and differences are in 2001 dollars.

<sup>7</sup> The Department does not imply either its support of or opposition to license renewal by analyzing it as a case for the proposed transaction. Rather, its analysis recognizes license renewal as a possibility for Vermont Yankee which has potential value to ratepayers.

<sup>8</sup> The premature shutdown evaluation was not performed for the license renewal period since it would only have shown continued operation to be more favorable.

1           Witness Biewald testifies that there appears to be some transfer of risk under the analysis  
2           of one sample risk, but that his conclusion is tempered by the uncertainty of who will pay costs  
3           and manage decommissioning if ENVY declares bankruptcy. Witness Biewald also states that  
4           the value of the PPA should not be considered independently from the whole economic  
5           evaluation of the transaction, and that the presence of a low-market adjuster in the PPA is a  
6           positive factor of the sale, albeit diminished by the shortcomings he identified.

7           I determine that the decommissioning cost risk is a minor risk and the transfer of this risk  
8           is of relatively little significance in the sale. The loss of local control, and the potential decrease  
9           in safety incentive inherent with EWG plant status, are negative factors of the sale.

10          Witness Crane concludes that the financial assurance proposed by ENVY is not robust  
11          and is not adequate in light of the financial challenges ENVY might experience. She determines  
12          that a financial guarantee from Entergy is necessary for adequate financial assurance for ENVY,  
13          and that other financial safeguards identified in her testimony should be implemented if the  
14          proposed transaction is approved.

15          Witness Chernick determines that J.P. Morgan appears to have structured the auction in  
16          an appropriate manner. He also determined that the bid process resulted in a substantial bid and  
17          the high bidder was selected. However, he identifies certain concerns with J.P. Morgan and  
18          VYNPC regarding the negotiation process.

19

1 Q. The petitioners represent that the proposed transaction represents fair market value for the plant,  
2 and that it may be unable to obtain a higher value if this sale is rejected. Is the Department  
3 concerned that, if this sale is rejected, Vermont Yankee may remain unsold?

4 A. What we seek is the outcome that promotes the general good of the state. Regardless of  
5 whether or not ENVY is offering fair market value for Vermont Yankee, or whether no other  
6 buyer would offer more than ENVY, the proposed transaction still must promote the general  
7 good of the state. Remember, VYNPC and its Vermont sponsors are not obligated or compelled  
8 to sell Vermont Yankee. Nuclear plant sales in New York, Massachusetts and Connecticut  
9 were the result of legislatively mandated divestiture as part of electric utility restructuring. While  
10 certain of VYNPC's sponsors are under such mandates for Vermont Yankee, VYNPC and its  
11 Vermont sponsors are not.  
12

13 **ADDITIONAL CONDITIONS IF PROPOSED TRANSACTION IS APPROVED**

14 Q. If the Public Service Board ("the Board," "PSB") finds the sale promotes the general good of the  
15 state, does the Department recommend the Board apply certain additional<sup>9</sup> conditions upon the  
16 sale?

17 A. Yes. These are identified in the table below. A number of these additional conditions  
18 were included in the settlement agreement among VYNPC, AmerGen, and the Department, in

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<sup>9</sup> The summary of these conditions is identified as Additional Conditions because these conditions are in addition to the two major concerns about the sale identified in the previous section of this testimony.

Docket No. 6300, documented by the AmerGen MOU. For some of these additional conditions, ENVY has indicated agreement as listed in the “Comment” section of the table below. For others, ENVY has stated its agreement in meetings or in documents which are not yet recorded as part of this Docket.

**Recommended Additional Conditions for the Sale**

Number	Condition	Comment
1.	MOU for DPS Inspection of VY	
2.	Sharing of Excess Decommissioning Funds if Decommissioning is Delayed	ENVY Agreement, Kansler pf at 27
3.	Submittal of Quarterly Decommissioning Fund Reports	
4.	Periodic Decommissioning Cost Studies	ENVY Agreement, Kansler pf at 27
5.	PSB Approval for Changes to Decommissioning Trust Fund Agreements	
6.	Site Restoration	ENVY Agreement, Kansler pf at 27
7.	Spent Fuel Management	ENVY Agreement, Kansler pf at 27
8.	Entire Decommissioning Fund Transfer	ENVY stated agreement in discovery
9.	DPS Participation in Resolution of Spent Fuel Issues with DOE	Partial ENVY Agreement, Kansler pf at 27
10.	Low-level Radioactive Waste Disposal Availability	
11.	Interim Storage of Pre-1983 Spent Fuel	
12.	PSB Approval of License Renewal	ENVY Agreement, Kansler pf at 26

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Q. Please describe the recommended condition, MOU for DPS Inspection of VY.

A. The Department monitors the activities of Vermont Yankee through a memorandum of understanding (“Inspection MOU”). This Inspection MOU provides for daily telephone notification of plant activities from the Vermont Yankee Liaison Engineer, entry and unescorted access to the plant, office space at the plant, and access to Vermont Yankee documents.

If the proposed sale were approved, an Inspection MOU substantially the same as Exhibit DPS-WKS-1 must be executed between the Department and ENVY to allow continued inspection activities. This Inspection MOU provides the same level of access and inspection that the Department now has with VYNPC. In addition, the Inspection MOU is expanded beyond the current memorandum to provide access to specific areas which will allow the state to monitor whether cost cutting is adversely affecting nuclear safety.

If the Board approves the proposed transaction, we recommend the Board condition the approval upon ENVY’s agreement to execute an Inspection MOU with the Department substantially the same as Exhibit DPS-WKS-1.

Q. Please describe the recommended condition, Sharing of Excess Decommissioning Funds if Decommissioning is Delayed.

1 A. As described in my testimony below, we recommend the Board condition approval of the  
2 sale upon ENVY's agreement to share between ratepayers and ENVY any excess funds in the  
3 decommissioning fund if decommissioning is significantly delayed.

4 Q. Please describe the recommended condition, Submittal of Quarterly Decommissioning Fund  
5 Reports.

6 A. As described in my testimony below, we recommend the Board condition approval of the  
7 sale upon ENVY's agreement to submit to the Board and the Department a quarterly report of  
8 decommissioning trust fund performance, including identification of book values, current market  
9 values, and after-tax values of each category of investments in the qualified and non-qualified  
10 funds, as reported to ENVY by the funds' managers.

11

12 Q. Please describe the recommended condition, Periodic Decommissioning Cost Studies.

13 A. As described in my testimony below, we recommend the Board condition approval of the  
14 sale upon ENVY's agreement to perform and release periodic studies of decommissioning costs.

15

16 Q. Please describe the recommended condition, PSB Approval for Changes to Decommissioning  
17 Trust Fund Agreements.

18 A. As described in my testimony below, we recommend the Board condition approval of the  
19 sale upon ENVY's agreement to submit any proposed disbursement of trust funds for purposes

1 not related to decommissioning, other than ordinary administrative expenses, and any changes to  
2 its decommissioning trust fund agreement, to the Board for approval.  
3

4 Q. Please describe the recommended condition, Site Restoration.

5 A. As described in my testimony below, we recommend the Board condition approval of the  
6 sale upon ENVY's agreement that decommissioning includes site restoration, and that site  
7 restoration costs are included in decommissioning costs.  
8

9 Q. Please describe the recommended condition, Spent Fuel Management.

10 A. As described in my testimony below, we recommend the Board condition approval of the  
11 sale upon ENVY's agreement that decommissioning includes spent fuel management, and that  
12 spent fuel management costs are included in decommissioning costs.  
13

14 Q. Please describe the recommended condition, Entire Decommissioning Fund Transfer.

15 A. As described in my testimony below, we recommend the Board condition approval of the  
16 sale upon ENVY's agreement that the entire VYNPC decommissioning trust fund will be  
17 transferred into the ENVY decommissioning trust fund.  
18

19 Q. Please describe the recommended condition, DPS Participation in Resolution of Spent Fuel  
20 Issues with DOE.

1 A. As described in my testimony below, we recommend the Board condition approval of the  
2 sale upon ENVY's agreement to afford the Department full participation in resolution of spent  
3 fuel issues with the DOE.

4 Q. Please describe the recommended condition, Low-level Radioactive Waste Disposal Availability.

5 A. As described in my testimony below, we recommend the Board condition approval of the  
6 sale upon ENVY's agreement that it will hold the state of Vermont harmless for any liability  
7 under the Low-Level Radioactive Waste Policy Amendments Act of 1985, if no low-level  
8 radioactive waste disposal facility is available.

9  
10 Q. Please describe the recommended condition, Interim Storage of Pre-1983 Spent Fuel.

11 A. As described in my testimony below, we recommend the Board condition approval of the  
12 sale upon ENVY's agreement that VYNPC is not responsible for management costs for Pre-  
13 1983 spent fuel.

14  
15 Q. Please describe the recommended condition, PSB Approval of License Renewal .

16 A. As described in my testimony below, we recommend the Board condition approval of the  
17 sale upon ENVY's agreement to obtain approval from the Board prior to operating Vermont  
18 Yankee beyond its current license termination date of March 2012.

19  
20 **CHANGED CONSIDERATIONS SINCE THE AMERGEN PROPOSAL**



1 Q. Are there changes in the Department's analyses and considerations since the AmerGen proposal  
2 in Docket No. 6300?

3 A. Yes. In the intervening two years since the Department evaluated the AmerGen  
4 proposal, events have occurred resulting in certain changed assumptions and considerations.  
5 These may be identified as 1) license renewal, 2) power uprate, 3) financial difficulties of electric  
6 industry corporations, 4) decommissioning assumptions, and 5) nuclear security.  
7

8 Q. Please describe the change in considering license renewal.

9 A. In Docket No. 6300, the Department did not analyze the economics of license renewal  
10 since license renewal of Vermont Yankee was considered speculative. However, as DPS  
11 Witness Schlissel testifies, the Nuclear Regulatory Commission (NRC) has approved 20-year  
12 license renewal for six nuclear plants, and license renewal now appears to be considered routine  
13 for operating nuclear reactors. Therefore, although the petitioners did not present testimony  
14 regarding license renewal, the Department analyzes license renewal as a case for the proposed  
15 transaction.  
16

17 Q. Please describe the change in considering power uprate.

18 A. The Department did not specifically consider power uprate in its analysis for Docket No.  
19 6300. Since the evaluation of the AmerGen proposal, nuclear utilities have increasingly found  
20 power uprate to be an effective method in developing cost-efficient power, as describe by DPS

1 Witness Schlissel. In Docket No. 6460 (CVPS rate increase), I evaluated a 1998 proposal for a  
2 5% power uprate at Vermont Yankee. In prefiled testimony filed in March 2001, I testified that  
3 VYNPC should have implemented the power uprate proposal<sup>10</sup>. Therefore, power uprate, as  
4 described by DPS Witnesses Schlissel and Biewald, is included as part of the analysis for the  
5 proposed transaction.

6  
7 Q. Please describe the change in the Department's consideration as a result of financial difficulties of  
8 utilities.

9 A. In Docket No. 6300, in prefiled rebuttal testimony of June 2, 2000, at 13, I testified  
10 regarding financial assurance that:

11 I also agree that PECO, Unicom, and British Energy's reputation and  
12 prominent position in the power industry is a valid consideration, which  
13 makes remote the possibility that AmerGen Vermont will not honor its  
14 commitments.

15 This reliance on the prominence of PECO, Unicom and British Energy formed, in part,  
16 the basis upon which the Department agreed that financial risks were, in fact, transferred to the  
17 limited liability corporation buyer, as asserted by the petitioners. However, in the intervening  
18 time since the AmerGen proposal, we have seen bankruptcies of major electric industry players,  
19 Pacific Gas & Electric Company and Enron Corp. Because of these bankruptcies, the  
20 Department is no longer willing to credit the transfer of risk beyond the financial guarantee  
21 provided to the limited liability corporation buyer.

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<sup>10</sup> VYNPC has indicated it is currently pursuing power uprate.

1 Q. Please describe the change in decommissioning collection assumption for the evaluation of the  
2 proposed transaction.

3 A. For the evaluation of the proposed transaction, the Department assumes, for VYNPC  
4 ownership, VYNPC will continue to contribute to the decommissioning fund at the current  
5 FERC-approved rate through the end of 2002. After 2002, the Department assumes the fund  
6 will be pre-paid and VYNPC will not make further payments to the fund. The fund will continue  
7 to grow through investment returns until sufficient to accomplish decommissioning. The fund  
8 will meet the NRC's pre-paid fund requirements, which would be the same as demonstrated by  
9 ENVY in its NRC License Transfer application for the proposed transaction (see Exhibit DPS-  
10 WKS-2). If investment returns did not produce sufficient funds to complete decommissioning,  
11 either at the time of premature closure or at the end of the operating license, then  
12 decommissioning would be delayed until the fund grew to a value sufficient to accomplish  
13 decommissioning.

14  
15 Q. How does this assumption differ from the assumption used in Docket No. 6300?

16 A. In Docket No. 6300, I assumed decommissioning for any premature closure would be  
17 delayed until 2012. However, in all cases (premature closures and closure at the end of the  
18 operating license), I assumed collection rates to provide for non-delayed decommissioning  
19 beginning in 2012. I calculated these collection rates by using VYNPC's estimate of  
20 decommissioning costs as a basis, and making adjustments to VYNPC's estimate. These

1 adjustments resulted in collections significantly less than calculated by VYNPC. In Docket No.  
2 6300, VYNPC used a decommissioning collection amount of \$17 million per year, whereas I  
3 calculated a collection rate of \$10.9 million per year. (Consistent with FERC practice, both  
4 VYNPC and I assumed the collection rate was escalated upward at 5-year intervals.)  
5

6 Q. What decommissioning collection assumption did VYNPC use for the proposed transaction?

7 A. VYNPC used the same methodology as in Docket No. 6300. It provided a revised study  
8 which increased its estimate of decommissioning costs, such that annual collections started at  
9 \$19.5 million per year. I do not agree with VYNPC's new estimate of decommissioning costs  
10 for the same reasons stated in my prefiled direct testimony in Docket No. 6300. However, rather  
11 than make adjustments as in Docket No. 6300, I chose the revised assumption described above.  
12

13 Q. Please identify the reasons for choosing the revised assumption of no VYNPC decommissioning  
14 collections after 2002.

15 A. Before specifically listing the reasons for my choice, let me trace the evolution of  
16 decommissioning collections issues. Prior to the mid-90's, most decommissioning collections  
17 were set by studies performed by TLG Associates. TLG calculated decommissioning  
18 significantly higher than the NRC, but state regulators were pleased to use higher collection rates  
19 for the low-funded decommissioning funds to assure sufficient funding was available. Cost-of-  
20 service based utilities were also pleased to use higher estimates for the same reasons. In the mid-

1 90's, restructuring and utility competition created new cost-conservation thinking. With  
2 competitive pressure and without a guaranteed ratepayer pool, utilities and regulators began to  
3 see the value of the ability of the decommissioning fund to grow by investment returns. The  
4 Department's 1999 *Vermont Yankee Economic Study* was one of the first reports to recommend  
5 delaying decommissioning for a prematurely closed plant while the decommissioning grew by  
6 investment returns.

7 The purchase of nuclear plants by non-utility entities has further developed the  
8 consideration of decommissioning collections. Purchasing entities choose to meet NRC  
9 requirements by demonstrating pre-paid decommissioning funds according to NRC's formula.  
10 Following this demonstration, purchasing entities do not intend to contribute further to the fund.  
11 If the fund were not sufficient at the time of shutdown, decommissioning could be delayed until  
12 the fund grew by investment returns<sup>11</sup>.

13  
14 Q. Please continue to list your reasons for choosing the zero-collection decommissioning  
15 assumption.

16 A. Six reasons for the changed decommissioning assumption are stated below:

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<sup>11</sup> In Docket No. 6460 (CVPS rate case), in prefiled rebuttal testimony submitted on April 20, 2001, at 33-36, I testified that Dominion Energy would not have further collections for the Millstone 3 decommissioning fund. CVPS did not agree at the time, but has since confirmed this fact. In Docket No. 6300, AmerGen Witness Hawthorne described AmerGen's intention to employ this process of delaying decommissioning for fund growth. Tr 5/12/00 at 166-7.

1           1.       For the proposed transaction, ENVY demonstrates a prepaid decommissioning fund by  
2                   the NRC formula (see Exhibit DPS-WKS-2). ENVY does not anticipate making  
3                   additional deposits to the fund (see Exhibit DPS-WKS-3). Therefore, if the fund is  
4                   underfunded, ENVY plans to rely on delaying decommissioning.

5       \*\* Confidential below \*\*\* Confidential below \*\*\* Confidential below \*\*\* Confidential below \*\*

6           XX

7           XX

8           XX

9           XX

10       \*\* Confidential above \*\*\* Confidential above \*\*\* Confidential above \*\*\* Confidential above \*\*

11                   (See Confidential Exhibit DPS-WKS-4). If ENVY's plans consider a prepaid fund and  
12                   the possibility of delaying decommissioning, there is no reason these same plans should  
13                   not be applied to VYNPC ownership<sup>12</sup>.

14           2.       Some may argue that VYNPC's costs for decommissioning Vermont Yankee will be  
15                   significantly more than ENVY's, and that the delay required by VYNPC would be much  
16                   longer, and maybe unacceptable, than the delay for ENVY. I do not agree. It is true that  
17                   VYNPC represents its decommissioning costs would be higher than ENVY's. I do  
18                   believe ENVY could achieve some savings. However, at the time of decommissioning,

---

<sup>12</sup> As co-petitioner in this docket and supporter of the proposed transaction, VYNPC implicitly assents to this plan for the closed nuclear plant to remain in SAFESTOR in Vermont beyond the 2012 license expiration date. There is therefore no reason not to apply the same assumption to VYNPC ownership.

1 VYNPC will be able to hire expertise to implement savings it is not now considering. For  
2 example, in Response to DPS Information Request 2-55 (see Exhibit DPS-WKS-5),  
3 ENVY provided a letter from Entergy to VYNPC documenting its offer to provide  
4 savings up to \$100 million in the ultimate cost of decommissioning if it is engaged to  
5 manage the effort. Therefore, I don't believe the difference in decommissioning costs for  
6 VYNPC and ENVY will be significantly different.

7 3. It is not detrimental to delay decommissioning beyond 2012 and there is no reason for  
8 ratepayers to pay more to avoid such a delay. Decommissioning is required in order to  
9 remove from the site residual low-level radioactive waste associated with the equipment  
10 and structures remaining on the site. However, the radioactivity associated with these  
11 decommissioning wastes is minuscule compared to the radioactivity associated with spent  
12 nuclear fuel which will be managed at the site, according to VYNPC, until 2031 (for a  
13 2012 shutdown). There is little value in paying millions to remove the small amounts of  
14 radioactivity in decommissioning, while leaving the really highly radioactive spent fuel at  
15 the site. Delaying decommissioning a few years for fund growth, to the benefit of  
16 ratepayers, is a desirable plan.

17 4. Investment returns are likely to outperform the conservative assumptions used for fund  
18 growth. Since 1994, the VYNPC fund has significantly outperformed the investment  
19 return assumed in setting the collection rates for 1994 to 2001. It is possible that  
20 sufficient funding will be available in 2012. If VYNPC were to receive license renewal,

1 the investment returns over the license renewal period would result in a fund value far in  
2 excess of decommissioning cost requirements.

3 5. As stated later in my testimony, it is not clear that low-level radioactive waste disposal  
4 will be available at the time of decommissioning. Envirocare of Utah cannot take Classes  
5 B and C waste, and the facility in Barnwell, SC, is scheduled to be closed to Vermont  
6 Yankee wastes after 2008. There has been no significant progress to date in developing a  
7 Texas facility. Therefore, at the time of decommissioning there may be no facility  
8 available in which to dispose of Classes B and C low-level waste. In that event,  
9 decommissioning would need to be delayed anyway.

10 6. Finally it is necessary to make the zero-collection assumption in order to compare the  
11 proposed transaction with continued VYNPC ownership and operation on an even basis.  
12 It is not an even comparison to consider VYNPC ownership with non-delayed  
13 decommissioning starting at 2012, with ENVY ownership and delayed decommissioning.  
14 The Department could either choose to make the zero-collection assumption for  
15 VYNPC, or require ENVY to top-off the decommissioning fund with either a one-time  
16 payment or periodic payments. I have chosen the zero-collection assumption because  
17 there is no reason decommissioning should not be delayed beyond 2012 if it benefits  
18 ratepayers.

19



1 Q. What is the effect on the evaluation of the proposed transaction of the changed decommissioning  
2 collection assumption?

3 A. This assumption shows VYNPC could operate Vermont Yankee for less than they claim.  
4 As shown by DPS Witness Biewald's testimony, this reduces the calculated costs for continued  
5 VYNPC ownership and tends to make the proposed transaction less attractive.  
6

7 Q. Please describe the changed consideration related to plant security.

8 A. The terrorist attack of September 11 has caused a redefinition of security requirements at  
9 nuclear plants. In discovery, VYNPC identified a \$1.5 million additional operating cost  
10 requirement for security, and a \$1.1 million capital cost. These additional costs were not  
11 included in VYNPC's evaluation for the sale. The Department has used these estimates as  
12 representative of new security costs, assuming for its base case, a one time capital addition of  
13 \$1.1 million and an operating cost increase of \$1.5 million for every year. For the  
14 decommissioning period, this additional security cost is reduced to an additional \$1 million per  
15 year. Actual security costs may be greater or less than these amounts. Our analyses include  
16 sensitivity cases showing that increases or decreases will not greatly influence the results of the  
17 analyses. It is my judgement that these estimates are in a reasonable range for the actual security  
18 increases. I do not foresee additional security costs which are an order-of-magnitude greater  
19 than these estimates.  
20

Q. You have described five changed considerations since the AmerGen proposal. Please describe what the effect would have been on the evaluation of the AmerGen proposal if these changed considerations had been applied.

A. A comparison of the AmerGen proposal is shown in the box below. This comparison shows the 1) Department's evaluation of the benefit of the proposal in Docket No. 6300, 2) the evaluation of the AmerGen proposal that would have resulted from the changed considerations identified above, and 3) the evaluation of the current proposal.

**Comparison of AmerGen Proposal with Changed Considerations from Docket No. 6545  
(2001 dollars in millions)**

	Final AmerGen Proposal, from Docket 6300	Final AmerGen Proposal, with Docket 6545 Assumptions	Entergy Proposal in Docket 6545
Calculated NPV Benefit of the Proposed Sale vs. Continue Ownership - Operation until 2012	\$81	(\$110)	\$13

This comparison demonstrates that, using the new information that has become available since the Department's evaluation in Docket No. 6300, we would not have calculated a benefit to ratepayers for the AmerGen proposal. Once again, in the intervening time since our evaluation in Docket No. 6300, it has become apparent that VYNPC can operate Vermont Yankee more economically than we believed in Docket No. 6300.

1 Q. Do you have comments on other assumptions for the Department's analysis?

2 A. Yes. DPS Witness Biewald describes the Department's base case analysis. I have  
3 comments regarding the assumption for damages related to spent fuel expected from the U.S.  
4 Department of Energy (DOE) and the assumption for O&M costs in 2012, the year Vermont  
5 Yankee's current operating license expires.

6  
7 Q. Please describe the assumption used for damages related to spent fuel expected from DOE.

8 A. The Nuclear Waste Policy Act of 1982 established the requirement for nuclear licensees  
9 to enter into the DOE Standard Contract. The contract has required ratepayers to pay a fee of  
10 one mill per kilowatt-hour to the federal government for every kilowatt-hour produced by  
11 Vermont Yankee after 1982 ("the mill charge"). In return, DOE was obligated to begin  
12 removing spent nuclear fuel from reactor sites in 1998. Vermont Yankee's first shipment of fuel  
13 should have been shipped from the site in 1999.

14 The DOE Standard Contract also established a fee for spent nuclear fuel generated before  
15 1983. The contract allowed immediate payment of the fee, or delayed payment with  
16 accumulated interest when the first fuel is taken from the site. VYNPC chose the latter option  
17 and now holds a Spent Fuel Trust Fund valued at over \$100 million. In the proposed  
18 transaction, VYNPC would retain the Spent Fuel Trust Fund.

19 When the DOE failed to remove spent fuel from nuclear sites, beginning in 1998, two  
20 lawsuits resulted in the following determinations. In Indiana Michigan, the D.C. Circuit Court

1 determined that DOE was required to commence disposal services by January 31, 1998  
2 irrespective of the existence of a suitable facility or interim storage arrangements. The obligation  
3 was “without qualification or condition.” Indiana Michigan Power Co. v. United States, 88 F.3d  
4 1272, 1276 (D.C. Cir. 1996). In Northern States Power, the Court acknowledged the petitioners  
5 were entitled to damages within the language of the Standard Contract. Northern States Power  
6 Co. v. DOE, 128 F.3d 754, 761 (D.C. Cir. 1997).

7 A number of petitioners currently have actions pending in the Court of Federal Claims to  
8 determine the level of damages resulting from DOE’s failure to perform its contractual  
9 obligation. Other nuclear operators are negotiating with DOE for possible settlement of damage  
10 claims from the Standard Contract.

11 There is a clear expectation that VYNPC would receive damages if it continued to own  
12 and operate Vermont Yankee<sup>13</sup>. Nevertheless, VYNPC does not include receipt of these  
13 damages in its forecasts. Furthermore, VYNPC does include amounts in its forecast to own and  
14 operate that are a direct result of DOE’s failure - specifically dry cask storage costs. VYNPC  
15 has not pursued these damages in the courts, but has calculated an amount for these damages. In  
16 discovery, we asked for VYNPC’s calculation of damages and it provided Response DPS 1-13  
17 (included as Exhibit DPS-WKS-6)<sup>14</sup>.

---

<sup>13</sup> In the proposed transaction, Entergy would receive any damages if the sale were approved.

<sup>14</sup> In Response DPS 1-13, VYNPC includes the disclaimer, “This document was prepared for discussion and background purposes only.” Since the Department has not attempted to independently estimate VYNPC’s damages from DOE failure, DPS 1-13 represents the best estimate available.

1           Response DPS 1-13 includes damage costs from 1997 to 2031. For the purpose of  
2           evaluation, I assumed costs after 2012 would be accounted for within the decommissioning  
3           process. Costs prior to 2012 should be included as a deduction to operating expenses. For our  
4           base case, I summed the dollar costs from 1997 to 2012 from DPS 1-13, and redistributed the  
5           damage costs, without escalation, into the years 2002 to 2011, to represent damage returns in  
6           these years by DOE<sup>15</sup>.

7  
8   Q.     Please describe the assumption related to O&M costs in 2012, the year Vermont Yankee's  
9           current operating license expires.

10  A.       In Exhibit BW-9, VYNPC Witness Wiggett includes a base operating expense for the  
11           year 2012 of \$76 million. This represents his assumption that VYNPC will require eight  
12           additional months of the same staff costs as during operation in order to complete its  
13           decommissioning plan. I consider this an unreasonable assumption for the following reason.  
14           Since the end-of-operation in 2012 would be known, VYNPC could develop its  
15           decommissioning plans and post-shutdown documents well before shutdown, converting the use  
16           of staff normally engaged in refueling outage planning and other forward activities, to post-  
17           shutdown planning. I believe these documents could be submitted to NRC and pre-approved,

---

<sup>15</sup> The Department's expectation is that VYNPC will not settle with DOE for less than full reimbursement of damages. I realize the distribution of returns I have chosen is not definitive. However, if these damages are received later in time, I would expect VYNPC to be successful in demanding compensation from DOE for the time value of money.

1 such that, at shutdown, VYNPC could effect a prompt staff reduction. Therefore I eliminate  
2 these eight additional months of staff costs for the Department's evaluations.  
3

4 **COMPARISON OF CONTINUED OPERATION WITH PREMATURE SHUTDOWN**

5 Q. Please describe the manner in which you have compared continued operation with premature  
6 shutdown.

7 A. The Department prepared a January 1999 *Vermont Yankee Economic Study* which found  
8 there was a \$153 million NPV benefit for continued operation to the end of the current operation  
9 license ("EOL") when compared with premature shutdown in 1999. In Docket No. 6300,  
10 premature shutdown was again evaluated as part of my prefiled direct testimony of April 14,  
11 2000. That evaluation found a \$196 million NPV benefit for continued operation through EOL  
12 when compared with premature shutdown in 2001.

13 For this testimony, premature shutdown was again evaluated. The methodology  
14 employed is essentially the same as used in 1999 and 2000. The base case assumptions identified  
15 by DPS Witness Biewald were used for the shutdown evaluation, including the changed  
16 considerations identified earlier in this testimony. I calculated NPV estimates for costs to  
17 prematurely close Vermont Yankee at its scheduled refueling outages in 2002, 2004, 2005, 2007,  
18 and 2008.  
19

20 Q. Please summarize the results of your shutdown evaluation.

1 A. The overall results are shown in the box below:

2 **Summary of Base Case Results and Comparisons of NPV of Alternatives**  
3 **(2000 dollars in Millions)**

Shutdown Year	NPV COSTS (millions)	Difference Prev Year	Difference From EOL
2002	\$1,502		281
2004	\$1,445	(57)	224
2005	\$1,433	(12)	212
2007	\$1,402	(32)	181
2008	\$1,367	(34)	146
EOL	\$1,221	(146)	0

14  
15  
16 These results show a \$281 million NPV benefit to continue operating the plant over  
17 prematurely closing the plant in 2002. (The amounts shown in the table are for 100% of the  
18 plant costs. Vermont sponsors are responsible for 55% of Vermont Yankee's costs. Vermont  
19 costs are 55% of the costs shown in the table.)

20 Q. Why does your latest shutdown evaluation show a greater NPV benefit for continued operation  
21 than previous evaluations?

22 A. There are many differences between the latest evaluation and the previous evaluations,  
23 including a different forecast of Vermont Yankee costs and a different market price forecast.  
24 The clearest way to understand the difference is this: In the evaluation for this docket it is  
25 realized and assumed that VYNPC will operate Vermont Yankee more economically through  
26 implementing power uprate, reducing decommissioning payments, receiving spent fuel damages

1 from DOE, and realizing O&M savings. This more efficient and economical operation makes  
2 continued operation more attractive when compared with premature shutdown.

3  
4 Q. Please identify more specifically the assumptions used for the shutdown evaluation.

5 A. I chose the years, 2002, 2004, 2005, 2007, and 2008 as representative years to evaluate  
6 shutdown. According to Vermont Yankee's refueling schedule, each of these years has a  
7 refueling outage scheduled, and I assumed a planned premature closure at the beginning of the  
8 refueling outage. As a basis I used VYNPC's operating cost forecast from Witness Wiggett's  
9 Exhibit BW-9. With the exception of the decommissioning collection, I generally used the  
10 methodology described in Chapter 4 of the 1999 DPS Study to calculate shutdown NPV's.

11  
12 Q. How did you determine the additional cost per year for SAFESTOR decommissioning?

13 For each premature shutdown case, I assumed the plant was placed in SAFESTOR until  
14 2012 when funding from the decommissioning fund began. I used a value of \$5 million per year  
15 (in 1999 dollars) as a representative assumption for the yearly SAFESTOR costs. I also added  
16 an additional \$1 million per year for additional security costs.



1 Q. What is your conclusion regarding your shutdown evaluation?

2 A. I conclude that continued operation is significantly less costly than premature shutdown.

3 Furthermore, the conclusions restated below from the 1999 *Vermont Yankee Economic Study*

4 remain valid:

5 Until there is more certainty associated with future replacement power  
6 costs predictions, caution is appropriate in considering whether to  
7 discontinue operation of Vermont Yankee even if its short term economic  
8 results are marginal. Continuing to operate if costs appear to be on-the-  
9 margin--either positive or negative--provides a hedge against replacement  
10 power more expensive than now predicted.

11  
12 (1999 DPS Study, at 46.)

13  
14 Even if the plant were at the breakeven point, continued operation could  
15 continue to be desirable because of the uncertainty in future replacement  
16 power costs. The volatility of the electric industry as a result of  
17 restructuring and competition, and possible government actions to meet  
18 greenhouse gas emission targets, leave the possibility that future  
19 replacement power costs may be higher than currently predicted. A  
20 decision to shut down with marginal economics would leave ratepayers  
21 open to risks of significant additional costs if replacement power turns out  
22 to be more expensive than predicted.

23  
24 (1999 DPS Study, at 54.)

25  
26

27 Sensitivity Checks

28 Q. Did you perform a sensitivity check for the shutdown evaluation related to security costs?

29 A. Yes. I performed a sensitivity check to determine the effect of a large security cost

30 increase. The base case reported above includes an annual \$1.5 million security increase during

31 operation and an annual \$1 million security increase after shutdown. I then added a large

security cost increase of approximately \$10 million per year, an unreasonably high assumption in my judgement, for each year of operation. The results of this case are shown in the box below.

**Summary of Large Additional Security Cost Results and Comparisons of NPV of Alternatives  
(2000 dollars in Millions)**

Shutdown Year	NPV COSTS (millions)	Difference Prev Year	Difference From EOL
2002	\$1,520		225
2004	\$1,472	(48)	177
2005	\$1,474	2	179
2007	\$1,450	(24)	155
2008	\$1,425	(24)	130
EOL	\$1,295	(130)	0

These results demonstrate that, even assuming an unreasonably high security cost increase, continued operation is clearly preferred.

Q. Did you perform a sensitivity checks for the shutdown evaluation for various market price forecasts?

A. Yes. Besides the DPS 2001 forecast used for the base case, I checked a CVPS, GMP and Entergy forecast. The CVPS and GMP forecasts are included in CVPS Witness Page's testimony, Exhibit CVPS Page-2. The Entergy forecast is taken from Confidential Entergy discovery response DPS 1-25. The results of these sensitivity checks are shown in the box below:

**Summary of Market Price Forecast Sensitivity Results and Comparisons of NPV of Alternatives**

(2000 dollars in Millions)

\*\*Confidential  
Column \*\*

	DPS 2001		CVPS		GMP		ENTERGY	
Shutdown Year	NPV COSTS	Diff From EOL	NPV COSTS	Diff From EOL	NPV COSTS	Diff From EOL	NPV COSTS	Diff From EOL
2002	\$1,502	281	\$1,470	249	\$1,433	212	\$xxxxx	xxx
2004	\$1,445	224	\$1,384	163	\$1,358	137	\$xxxxx	xxx
2005	\$1,433	212	\$1,362	141	\$1,338	117	\$xxxxx	xxx
2007	\$1,402	181	\$1,335	114	\$1,319	98	\$xxxxx	xxx
2008	\$1,367	146	\$1,313	92	\$1,305	84	\$xxxxx	xxx
EOL	\$1,221	0	\$1,221	0	\$1,221	0	\$xxxxx	xxx

\*\*Confidential  
Column \*\*

Of the forecasts tested, the GMP forecast is the lowest, starting at \$42.82 per MWh in 2002, dropping to \$37.82 per MWh in 2006, and increasing to \$46.87 per MWh in 2012. As expected, the GMP results show smaller benefits for continued operation than other options. However, all show a benefit to continued operation.

The Department recognizes that forecasting future market prices is an imprecise endeavor. Nevertheless, the shutdown results for the various forecasts are such that the conclusions from the 1999 *Vermont Yankee Economic Study*, quoted above, still apply, and continued operation is preferred over premature shutdown.

## TESTIMONY ON RISKS, SAFETY, AND OTHER CONSIDERATIONS

Q. Please identify the risks, safety issues and other considerations which you believe are important for evaluating the proposed transaction.

A. The box below identifies risks, safety issues and other considerations which I found were important for evaluation of the proposed transaction:

Operational Safety and Reliability
Nuclear Waste Issues
Decommissioning Issues
License Renewal
Vermont Control Issues

Operational Safety and Reliability

Q. Please describe the consideration of the potential effects of the transfer on safe and reliable operation.

A. VYNPC has operated Vermont Yankee safely and reliably during its nearly thirty-year history. In prefled direct testimony in Docket No. 6300, at 78, I described changes which have been occurring at the NRC since October 1998, and stated:

NRC remains a tough, though not perfect, regulator. The regulatory system established over the years is robust, and I intend to monitor the changes to regulatory aspects as they may effect Vermont Yankee.

Q. How would you characterize the manner in which NRC has regulated Vermont Yankee?

1     A.           NRC, over the forty years of commercial nuclear history, has created a highly developed  
2           system of requirements for design, construction, operation and oversight of nuclear plants.  
3           Hallmarks of the system of NRC requirements are defense-in-depth, conservatism and rigorous  
4           inspections. Defense-in-depth means that more than one method or system are provided to  
5           accomplish the same safety function. Conservatism refers to the practice of deliberately  
6           estimating high or low, depending on the circumstance, to bias evaluations toward higher levels  
7           of safety to account for uncertainties or the unexpected. Regarding inspections, the NRC has  
8           had two full time inspectors at the Vermont Yankee site. The NRC's regulation of the nuclear  
9           industry has resulted in an industry with an impressive safety record.

10  
11    Q.           Please describe the changes that had been occurring at the NRC prior to the AmerGen proposal.

12    A.           In that period, NRC had added an additional major strategy to its regulatory mission - to  
13           reduce unnecessary regulatory burdens. Under this strategy, aggressively managed by the last  
14           two NRC Chairpersons, NRC has reduced the level of its regulation in a number of areas. NRC  
15           ended its former oversight process, which provided numerical evaluations for plant performance,  
16           and replaced it with a Revised NRC Oversight Process, which gives much less differentiation  
17           regarding performance. It also terminated its "problem plant list." NRC has revised other  
18           aspects of its regulatory system, including a reduction in the frequency of reactor containment  
19           integrity testing, termination of NRC testing of reactor operators, essentially eliminating fines

1 from its enforcement policy, reduction in the requirements on safety systems, and reduction in  
2 requirements for design basis accidents.

3 A major factor in these changes was the evolution of probabilistic risk assessment  
4 technology. This analytical method has developed such that areas important to safety can be  
5 differentiated from areas of little safety significance. NRC claims the changes it has made reduce  
6 regulation in areas of little safety significance.

7  
8 Q. Have you continued to observe these NRC changes since the AmerGen proposal?

9 A. Yes. Since the AmerGen proposal, NRC has continued making additional changes  
10 beyond those described above. One example is the Operational Safeguards Response  
11 Evaluations (OSREs). The OSRE is a force-on-force test NRC performed to test the readiness  
12 of plant security provisions. Nuclear plants often did not perform well on the OSRE tests, and  
13 the nuclear industry opposed these tests and claimed that individual plants could just as well test  
14 their own security forces. Under this urging from the industry, NRC invoked the “reduce-  
15 unnecessary-regulatory-burden” strategy, and announced its intentions to terminate these tests.  
16 Subsequently, the events of September 11 intervened, and it is hoped NRC will reverse its  
17 announcement and continue the OSRE testing program.

1 Q. Do you have a concern with these changes to NRC regulation?

2 A. Yes. As I stated above, the nuclear industry has had a good safety history because of the  
3 NRC method of regulation through defense-in-depth, conservatism and inspections. The NRC  
4 changes are reducing the defense-in-depth, conservatism and inspections that have created the  
5 successful safety history. I believe this puts Vermont Yankee in uncharted waters regarding  
6 future safety.

7  
8 Q. Does this concern over NRC safety reductions relate to the proposed transaction?

9 A. Yes, because in the transaction, ENVY is requesting Exempt Wholesale Generator  
10 (EWG) status for Vermont Yankee. As an EWG, ENVY would charge market rates for  
11 Vermont Yankee. Vermont Yankee is currently a cost-of-service plant. Under cost-of-service  
12 regulation, all prudently incurred expenses are passed through the sponsors to ratepayers<sup>16</sup>.  
13 From a safety aspect, cost-of-service regulation is attractive for nuclear plants in this regard: if  
14 extra revenues are necessary for safety reasons, these revenues may be directly acquired through  
15 billing<sup>17</sup>.

---

<sup>16</sup> This is true specifically of the Vermont sponsors, and only to a lesser degree to out-of-state sponsors who are under various mandates related to restructuring in their states.

<sup>17</sup> It is acknowledged this can create undesirable effects for certain sponsors. If there is no fuel adjustment charge, the sponsors may not directly be able to recover their between rate cases costs from ratepayers unless the charge is large and extraordinary, qualifying for special relief. It is also recognized that, while shedding the risk of unexpected safety costs may be a benefit to the sale, the concomitant economic pressure on safety funds is a negative aspect.

1 Under EWG status, Vermont Yankee would operate under competitive pressure to  
2 achieve profitability goals. In this scheme, there would be strong incentives to reduce costs in  
3 order to increase profitability. These incentives would become stronger for any situation which  
4 tended to reduce profitability. If operating costs were higher than projected for some reason, say  
5 an extended outage, there would be a strong incentive to reduce costs in other areas to meet  
6 budget and profitability projections.

7 My concern is summarized in this way: The proposed transaction could create a major  
8 incentive for Entergy to reduce costs at Vermont Yankee, while at the same time, NRC is letting  
9 up on the amount of regulation it performs. This is not a good mix.

10  
11 Q. Please summarize your overall evaluation of this safety aspect of the proposed transaction.

12 A. In prefiled direct testimony in Docket No. 6300, at 89, I concluded:

13 While economic pressure from competition will always be a concern, it  
14 will be manageable at Vermont Yankee through directing the NRC's  
15 attention to monitoring the effects of cost cutting, and through state  
16 monitoring of areas which would indicate adverse effects of cost cutting.  
17

18 The continued aggressive implementation of the NRC strategy of reducing unnecessary  
19 regulatory burdens raises questions over how well economic pressure from competition can be  
20 managed through directing NRC's attention to monitoring the effects of cost cutting. Therefore,



1 I conclude that the safety impact of conversion of Vermont Yankee to an EWG is a negative  
2 aspect of the proposed transaction<sup>18</sup>.

3  
4 Nuclear Waste Issues

5 Q. Please describe the consideration of the nuclear waste issues in the proposed sale.

6 A. Earlier in my testimony, I have described an analytical assumption related to spent fuel  
7 damages expected from the DOE. There are three additional nuclear waste issues: 1) the  
8 opportunity for the Department to participate in settlement negotiations related to spent fuel  
9 damages, 2) cost responsibilities associated with Pre-1983 spent fuel, and 3) the availability of  
10 low-level radioactive waste disposal sites.

11  
12 Q. Please identify the issue resulting in settlement negotiations related to spent fuel damages.

13 A. As explained earlier in this testimony, Vermont has the expectation that Vermont Yankee  
14 will receive damages from the DOE regarding DOE's failure to perform. In the proposed  
15 transaction, ENVY would assume the overall risks and liabilities associated with the management

---

<sup>18</sup> Nuclear plants are currently operating as EWG's in restructured regulatory environments in MA, CT, NY, NJ, PA and IL. While I do not monitor the day-to-day activities of these plants, as I do with Vermont Yankee, I am unaware of safety problems that have occurred yet as a result of their EWG status. Nevertheless, I still consider the competitive incentives that would be created by EWG status of Vermont Yankee, coupled with the changes occurring at NRC, as a negative factor for the sale.

1 of spent nuclear fuel, including the possibility of receipt of damage payments from DOE. The  
2 DOE Standard Contract would be transferred to ENVY as part of the sale.

3  
4 Q. Please state the Department's expectation regarding resolution of damages related to DOE's  
5 failure to perform its contractual obligation to begin removing spent nuclear fuel.

6 A. Since the Purchase and Sales Agreement designates that any damage payments received  
7 will go to ENVY, the Department and the state's ratepayers would no longer have a financial  
8 interest in the DOE damages if the sale were approved. However, in addition to monetary  
9 damages, the Department's expectation is settlement will not occur without a firm and  
10 enforceable commitment that environmentally preferable<sup>19</sup> storage/disposal will be provided for  
11 spent nuclear fuel. Specifically, the Department does not favor one settlement possibility floated  
12 by the DOE in which the federal government would assume title, pay management costs, and  
13 manage spent nuclear fuel indefinitely on nuclear plant sites (the "DOE take-title" option).

14 Q. What is your position regarding the opportunity for the Department to participate in settlement  
15 negotiations related to spent fuel damages from DOE?

16 A. VYNPC would cede its control over litigation or settlement to ENVY as part of the sale.  
17 I am concerned that ENVY might choose to settle with DOE for a storage/disposal solution that  
18 is not environmentally preferable. Therefore, I believe the sale should be conditioned upon

---

<sup>19</sup> The Department believes that long-term or indefinite storage at Vermont Yankee equates to disposal, and that the location at Vermont Yankee on the banks of the Connecticut River is not an environmentally preferable disposal solution.

1 ENVY's agreement that it will not accept a settlement in which spent nuclear fuel is stored  
2 indefinitely at Vermont Yankee, and that the Department should be afforded the opportunity to  
3 participate fully in settlement discussions. ENVY Witness Kansler, pf at 27, states that ENVY  
4 agrees to a portion of this recommended condition:

5           Entergy Nuclear VY agrees to use commercial best efforts to assure that  
6           spent fuel is removed from the VY Station as quickly as possible. Entergy  
7           Nuclear VY will allow the Department to participate in discussions with  
8           DOE that involve the VY Station and to participate in the decision  
9           whether to pursue discussions or to litigate. Entergy Nuclear VY agrees  
10          that it will not accept a "DOE take title" resolution of the spent fuel  
11          removed issue with respect to the VY Station.  
12

13 Q. Please identify the issue regarding cost responsibilities associated with Pre-1983 spent fuel.

14 A.           According to Section 2.2(i) of the Purchase and Sales Agreement, VYNPC will retain the  
15 Vermont Yankee Spent Fuel Disposal Trust related to the one-time fee for fuel used to generate  
16 electricity prior to April 7, 1983. In its analyses, the Department has assumed that VYNPC  
17 retains the liability associated with the one-time fee, but does not retain on-going liabilities  
18 associated with the management of Pre-1983 spent fuel. Possible costs associated with the  
19 management of Pre-1983 spent fuel are storage costs at Vermont Yankee, storage costs at an  
20 interim storage site, transportation costs to an interim storage site, and environmental liabilities  
21 associated with the management of this spent fuel. Therefore, the Department believes it must be  
22 clear that ENVY agrees that VYNPC is not responsible for these management costs for Pre-  
23 1983 spent fuel.  
24

1 Q. Please identify the issue regarding the availability of low-level radioactive waste disposal sites.

2 A. ENVY Witness Kansler states:

3 Entergy Nuclear VY will complete, at its own expense, the  
4 decommissioning of the VY Station once the plant is no longer used to  
5 generate power. Pf at 20  
6

7 In order for ENVY to fulfill this commitment, it must dispose of low-level radioactive  
8 waste. Furthermore, ENVY requires low-level radioactive waste disposal for wastes generated  
9 as part of normal operations.  
10

11 Q. Are low-level radioactive waste disposal facilities available for Vermont Yankee waste?

12 A. Yes. Envirocare of Utah accepts Class A<sup>20</sup> wastes (the least radioactive category of low  
13 level radioactive waste). Currently, Barnwell, SC, accepts all categories (Classes A, B and C) of  
14 low level radioactive waste. However, Barnwell will continue to decrease the amounts of these  
15 wastes accepted until 2008, when it will become unavailable to Vermont Yankee<sup>21</sup>.  
16

17 Q. Are there other possibilities for the disposal commitment ENVY proposes to assume?

---

<sup>20</sup> Low-level radioactive waste is classified into categories by the NRC, from lowest to highest radioactivity, as Class A, Class B and Class C. The approximate percentage of VYNPC decommissioning waste by category is Class A - 95%, Class B - <5%, Class C - <1%.

<sup>21</sup> The Barnwell facility is the compact disposal facility for the Atlantic Compact, consisting of the states of SC, NJ and CT. After 2008, Barnwell is scheduled to accept only in-compact wastes.

1 A. Yes. There are various possibilities for disposal solutions, among which are the  
2 following. Vermont is a member of the Texas Compact and has the expectation that the State of  
3 Texas will develop a disposal facility for disposal of Vermont low-level radioactive wastes<sup>22</sup>.  
4 Also, Envirocare of Utah wishes to expand its disposal capability to include Classes B and C  
5 wastes<sup>23</sup>. However, there is no assurance these possibilities will result in disposal options for  
6 ENVY, and it is possible that a disposal facility will not be available to ENVY.

7  
8 Q. What is your concern related to this low-level radioactive waste disposal issue?

9 A. The Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPAA of  
10 1985), Section 3(a)(1)(A), established that each state is responsible for providing for the disposal  
11 of low-level radioactive waste generated within the state. Vermont has exercised due diligence  
12 in meeting this responsibility by becoming a member of the Texas Compact. It is important if  
13 ENVY assumes the responsibility for disposal of Vermont Yankee low-level radioactive waste,  
14 that it recognize that Vermont has met its responsibilities under the LLRWPAA of 1985, and  
15 that it will hold Vermont harmless for any liability if no disposal facility is available.

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<sup>22</sup> In the Purchase and Sales Agreement, ENVY assumes the liability for payment of Texas Compact Fees, if they are required. While it is true that Vermont expects Texas to develop a disposal facility, no significant progress has been made in this development.

<sup>23</sup> Envirocare's application to the state of Utah to accept Classes B and C wastes has been withdrawn because of complications related to the Goshute Indian Tribe's proposal to develop an interim spent fuel storage site nearby. It is expected Envirocare will again seek expansion of its disposal capabilities at a later date.

1    Decommissioning Issues

2    Q.     Please describe the consideration of decommissioning issues for the proposed sale.

3    A.             In the proposed transaction, ENVY would assume the responsibility for performing  
4             decommissioning of Vermont Yankee, including restoring the site to near its condition before  
5             Vermont Yankee was constructed, and management of spent nuclear fuel. ENVY will receive  
6             the Vermont Yankee decommissioning trust fund from VYNPC as a pre-paid decommissioning  
7             trust. ENVY will maintain the decommissioning fund as an independent trust in accordance with  
8             NRC requirements.

9             Earlier in my testimony, I identified the Department's assumption regarding  
10            decommissioning collections, which is changed from Docket No. 6300. I have several other  
11            concerns related to decommissioning which I believe should be conditions on ENVY if the Board  
12            chooses to approve the sale.

13

14   Q.     Please identify the recommended condition related to site restoration.

15   A.             In discovery, ENVY stated, "Once the site is no longer used for nuclear purposes or non  
16             nuclear commercial, industrial or other similar uses consistent with the orderly development of  
17             the site, Entergy would intend to restore the site by removing all structures and regrading and  
18             reseeding the property." Response to DPS Information Request 1-2. ENVY Witness Kansler,  
19             pf at 27, stated:

20             At the time of evaluation of the decommissioning fund for the NRC or for  
21             the site-specific study, Entergy Nuclear VY will provide additional funds

1 or other acceptable financial assurances as needed to ensure that funding  
2 will be sufficient to accomplish decommissioning, including site  
3 restoration and spent fuel management.  
4

5 If the Board chooses to approve the sale, I believe this commitment that  
6 decommissioning includes site restoration, and that site restoration costs are included in  
7 decommissioning costs, should be made a condition of the sale.  
8

9 Q. Please identify the recommended condition related to spent fuel management.

10 A. In the Purchase and Sales Agreement, ENVY would assume the responsibility for  
11 managing Vermont Yankee spent nuclear fuel until this responsibility is assumed by the DOE. In  
12 discovery, ENVY clarified that costs associated with spent fuel management following plant  
13 closure were included in the decommissioning fund and considered part of the decommissioning  
14 task (see Exhibit DPS-WKS-7). In the statement quoted above for ENVY Witness Kansler's  
15 prefled testimony, ENVY agrees to include spent fuel management costs in the decommissioning  
16 fund.

17 If the Board chooses to approve the sale, I believe this commitment that  
18 decommissioning includes spent fuel management, and that spent fuel management costs are  
19 included in decommissioning costs, should be made a condition of the sale.  
20

21 Q. Please identify recommended conditions related to assuring the integrity of the proposed ENVY  
22 decommissioning fund for Vermont Yankee.

1     A.             The VYNPC decommissioning fund, which would be transferred to ENVY in the  
2             proposed transaction, represents ratepayer monies provided for the purpose of decommissioning.  
3             In order to assure these monies are used for the purpose intended, two conditions are  
4             recommend. First, I recommend the Board condition the sale to assure the entire VYNPC  
5             decommissioning trust fund is transferred into the ENVY decommissioning trust fund<sup>24</sup>. Second,  
6             I recommend that the Board condition the sale on ENVY's agreement to submit any proposed  
7             disbursement of trust funds for purposes not related to decommissioning, other than ordinary  
8             administrative expenses, and any changes to its decommissioning trust fund agreement, to the  
9             Board for approval. In its NRC License Transfer Application, ENVY has committed to notify  
10            NRC upon changes to and use of funds from the decommissioning trust<sup>25</sup>. However, there is no  
11            guarantee NRC will act to protect the monetary interests of Vermont ratepayers. Therefore, the  
12            condition of Board approval of changes to and use of funds (for non-decommissioning purposes)

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<sup>24</sup> ENVY has stated its agreement with this condition in response to DPS Information Request 1-40: "Section 6.10(b) of the PSA requires that all assets of the VYNPC decommissioning trust be transferred to the Entergy decommissioning trust. Accordingly, there can be no diversion for any other purpose at the time of transfer. Such transfer will occur at the closing, not after the closing. Additionally, Entergy expects the NRC order approving the transfer of the license will expressly restrict the use of funds."

<sup>25</sup> In its NRC License Transfer Application, at 12, ENVY states: "The [Decommissioning] Trust will provide that: (1) no funds may be disbursed from the Trust funds, other than for ordinary administrative expenses, unless the Trustee first gives 30 days prior notice to the Director, Office of Nuclear Reactor Regulation (NRR), of the NRC and receives no written notice of objection from the NRC; . . . (3) no material amendments will be made to the Trust agreement without 30 days prior written notification to the Director, NRR."



1 from the decommissioning trust is recommended since the Board has the responsibility of  
2 protecting the monetary interests of Vermont ratepayers.

3  
4 Q. Please identify recommended conditions which would allow the Board and the Department to  
5 monitor the status of the proposed ENVY decommissioning fund for Vermont Yankee.

6 A. Vermont Yankee's decommissioning funding requirements are currently under FERC  
7 jurisdiction, and the Department has participated in cases at the FERC regarding the fund. If  
8 ENVY were granted EWG status and the ability to charge market-based rates, FERC would no  
9 longer exercise jurisdiction over the Vermont Yankee decommissioning fund. Unless the Board  
10 establishes a review of the decommissioning fund as a condition to the proposed transaction,  
11 there would be no state oversight of the Vermont Yankee decommissioning fund. The state  
12 would need to have oversight of the Vermont Yankee decommissioning fund for several reasons.  
13 First, the NRC monitors the adequacy of the decommissioning fund on a different basis from the  
14 FERC. The FERC process consists of an investigation which allows stakeholders to review the  
15 bases for the estimates. The NRC process is a semi-annual report identifying the amount of funds  
16 estimated to be required by the NRC formula described in 10 C.F.R. §50.75(b) and (c). This  
17 NRC formula results in lower requirements than those coming from the FERC process. The  
18 NRC process does not allow stakeholder involvement. The NRC process only verifies amounts  
19 to accomplish the NRC definition of decommissioning and not amounts to accomplish the  
20 additional commitments which ENVY has made, namely to return the site to a "greenfield"

1 condition and to manage spent nuclear fuel until the federal government removes it for disposal.

2 Vermont should remain a stakeholder for decommissioning for two reasons. First, since  
3 Vermont Yankee is located in Vermont, assurance of the ability to properly manage the residual  
4 radioactivity at Vermont Yankee is a specific state interest. Second, since the potential exists for  
5 sharing excesses in the decommissioning fund which may occur if decommissioning is delayed,  
6 the fund amount and management is an interest of the state.

7 Therefore, I recommend two conditions which would allow the state to monitor the  
8 status of the proposed ENVY decommissioning fund for Vermont Yankee. First, I believe the  
9 Board should secure ENVY's agreement to submit to the Board and the Department a quarterly  
10 report of decommissioning trust fund performance, including identification of book values,  
11 current market values, and after-tax values of each category of investments in the qualified and  
12 non-qualified funds, as reported to ENVY by the funds' managers<sup>26</sup>. Second, I believe the Board  
13 should condition the sale upon ENVY's agreement to perform and release periodic studies of  
14 decommissioning costs. In his testimony, ENVY Witness Kansler, at 27, has stated agreement to  
15 these periodic studies:

16 Entergy Nuclear VY agrees to update the site's decommissioning cost  
17 study at least once every five years and submit the results to the Board  
18 and the Department. The first of these studies will be due no later than  
19 the fifth anniversary of the closing. Entergy Nuclear VY agrees to (i)  
20 inform the public of the estimated cost of decommissioning which resulted

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<sup>26</sup> A similar requirement for a quarterly decommissioning report is included in Section 4.5 of the Settlement Agreement (related to the Vermont Yankee decommissioning) in FERC Docket EC00-46-000, et al., dated June 25, 2001.

1 from the analysis and (ii) participate in a public discussion of the results at  
2 a forum to be determined in conjunction with the Department.  
3

4 Q. Please identify the recommended condition related to sharing of excess decommissioning funds if  
5 decommissioning is delayed.

6 A. The decommissioning fund would be transferred to ENVY as well as the  
7 decommissioning risks and liabilities. ENVY would be required to make up any shortfalls, but  
8 likewise, would benefit from any excess funds. If there were an excess, the Department's  
9 expectation is that ENVY could only acquire the excess funds after decommissioning was  
10 completed<sup>27</sup>. Earlier in this testimony, I have recommended a condition that the Board approve  
11 any removal of funds for non-decommissioning purposes.

12 Without license renewal, if immediate dismantling were pursued by ENVY and  
13 completed in a timely manner, this would be a fair treatment of the decommissioning funds. If  
14 ENVY can complete decommissioning in a timely manner with an excess in the fund, it should be  
15 entitled to the excess, because it has taken some risk of higher costs.

16 However, if ENVY were to choose to delay dismantling significantly beyond the date of  
17 the expiration of the current operating license, there would be the possibility of very large  
18 excesses in the decommissioning fund. With license renewal, decommissioning could be delayed  
19 20 years or more.

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<sup>27</sup> Decommissioning is complete when radioactivity is determined to have been removed, meeting the NRC's site release standard, and when NRC terminates the 10 C.F.R. Part 50 license for the site.

1           Therefore, the Board should condition approval by requiring a sharing between  
2           ratepayers and ENVY of excess funds in the decommissioning fund if decommissioning is  
3           significantly delayed. In his testimony, ENVY Witness Kansler, at 27, has agreed to this  
4           condition:

5           Entergy Nuclear VY also agrees that if completion of decommissioning is  
6           delayed beyond the currently effective completion date of March 31,  
7           2022, excess decommissioning trust funds will be shared equally between  
8           Entergy Nuclear VY and electric consumers.  
9

10  
11       Q.     Do you have an additional comment regarding the transfer of decommissioning risk.

12       A.     Yes. In prefiled direct testimony for Docket No. 6300, at 46 to 58, I testified concerning  
13       decommissioning risk. My conclusions were:

14           I believe AmerGen's risk in this area [i.e., base dismantling  
15           decommissioning exclusive of spent fuel management and low-level  
16           radioactive waste disposal] is fairly limited. At 52.

17  
18           Overall, while uncertainties still exist, the risks leading to highly escalating  
19           decommissioning costs are less today than they have been in the past. Id.

20  
21           The transfer of financial risk associated with decommissioning is a factor  
22           in favor of the sale. Although decommissioning risks are perceived by  
23           some to be great, and although VYNPC sponsors wish to shed this risk,  
24           the ability to delay decommissioning to earn sufficient funds lessens the  
25           significance of this factor. At 58.  
26

27           Since Docket No. 6300, the Department has changed its assumptions regarding  
28       decommissioning collections, as described earlier in this testimony. Specifically, we understand

1 that the size of the fund allows it to be considered pre-paid, that the fund can grow by investment  
2 returns to levels allowing completion of decommissioning, and that there is no significant impact  
3 in delaying decommissioning. Because of this additional understanding regarding  
4 decommissioning, I do not consider the transfer of decommissioning risk to be a significant  
5 factor in the sale<sup>28</sup>.

6 License Renewal

7 Q. Please describe the consideration of the effect of the sale on the possibility of license renewal.

8 A. I recommend that, if the Board chooses to approve the proposed sale, the approval be  
9 conditioned on ENVY's agreement that it will obtain approval from the Board prior to operating  
10 Vermont Yankee beyond its current license termination date of March 2012. In his direct  
11 testimony, ENVY Witness Kansler, at 26, agrees to this condition:

12 [ENVY] agrees to a condition in an order issued by the Board approving  
13 this sale to the effect that the Certificate of Public Good ("CPG") issued  
14 by the Board will be limited to a term of years ending with the VY  
15 Station's current license termination date (March 2012) and that operation  
16 of the VY Station beyond its license termination date will be allowed only  
17 if the CPG has been renewed by the Board.  
18

19 Vermont Control Issues

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<sup>28</sup> The two areas of decommissioning in which ENVY may claim to assume risk are in low-level radioactive waste disposal and spent fuel management. Both could result in unanticipated future costs. However, as DPS Witness Crane testifies, there is no assurance that ENVY will have the resources for these costs, and therefore the assumption of risk cannot be credited.

1 Q. Please describe the proposed sale's effect on the ability of the Board and the state to take actions  
2 regarding Vermont Yankee which would promote the general good of the state.

3 A. In prefiled direct testimony for Docket No. 6300, at 90 to 96, I evaluated aspects of the  
4 AmerGen proposal that concerned Vermont's control over Vermont Yankee. I concluded that  
5 much statutory control was not altered by the sale, since Vermont Yankee is primarily regulated  
6 by the FERC and NRC. For other aspects, such as the loss of FERC review of  
7 decommissioning, I recommended conditions for approval of the sale. In these areas, the same  
8 conclusions apply to the proposed ENVY transaction. Earlier in my testimony, I have  
9 recommended conditions to replace FERC's review of decommissioning and to guarantee the  
10 ability to have access to Vermont Yankee documents and conduct inspections at the plant.

11 In the specific area of the ability of the Board and the state to take actions regarding  
12 Vermont Yankee which would promote the general good of the state, I evaluated in Docket No.  
13 6300 (pf at 95):

14 Under the present ownership, Vermont Utilities, CVPS and GMP, have a  
15 majority interest in VYNPC. The local and relatively accessible nature of  
16 CVPS and GMP create a specific sensitivity to Vermont concerns.  
17 AmerGen-Vermont, backed by PECO, British Energy and potentially  
18 Unicom, will be a powerful international nuclear conglomerate. This  
19 conglomerate will have great political influence and great influence at the  
20 NRC. Concerns of Vermont will be small compared to the issues and  
21 arenas that Unicom/PECO/British Energy/AmerGen interacts in. I  
22 consider this expected reduction in sensitivity to Vermont concerns as a  
23 negative aspect of the proposed sale.  
24

1           This same evaluation applies to the ENVY proposal. Entergy is a large, powerful  
2           company. Conversion of Vermont Yankee from a cost-of-service regulated plant to an EWG  
3           will reduce the Board's ability to take actions regarding Vermont Yankee through regulation of  
4           CVPS and GMP. Such actions could include, but are not limited to, possible decisions about  
5           premature shutdown, decommissioning methods, relicensing, relations with the federal  
6           government concerning disposition of both high and low level radioactive waste, and emergency  
7           response planning. Therefore, the large company nature of ENVY and the possible reduction in  
8           the Board and the state's ability to take actions regarding Vermont Yankee which would  
9           promote the general good of the state are considered a negative aspect of the proposed  
10          transaction.

11  
12    **CONCLUSION**

13    Q.     What do you conclude regarding the proposed transaction?

14    A.     In the comparison of alternatives, DPS Witness Biewald determined there would be a  
15          marginally small, positive economic benefit to ratepayers with the sale without license renewal. If  
16          the license were renewed, the sale would be economically adverse to ratepayers. The transfer of  
17          operating cost risks appears to be a positive aspect of the sale, while the corporate structure  
18          related to financial assurances, decreased safety incentives inherent with EWG status plants, and  
19          the reduction in the ability of the Board and state to take future actions related to Vermont  
20          Yankee to promote the general good of the state, are negative aspects of the sale.

1           The Department can support a sale of VYNPC as evidenced by its previous support for  
2           the AmerGen MOU. However, the issues related to financial assurance, the issues of power  
3           supply and economic value beyond 2012, and the additional conditions must be clarified,  
4           resolved or conditioned for the sale to promote the general good of the state of Vermont.

5  
6   Q.       Does this conclude your testimony?

7   A.       Yes, it does.  
8